



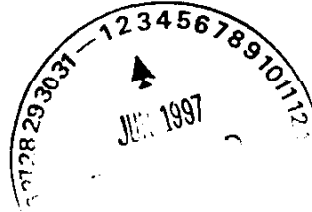
**CYPRUS AMAX  
MINERALS COMPANY**

Cyprus Amax Minerals Company  
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May 22, 1997

**Certified Mail Z 847 781 913**

Mr. David S. Guzy  
Chief, Rules and Procedures Staff  
Royalty Management Program  
Minerals Management Service  
P.O. Box 25165, MS 3101  
Denver, CO 80225-0165



Re: Comments on Delegation of Royalty Management Functions to States  
Proposed Rule

Dear Mr. Guzy:

On April 24, 1997 the Minerals Management Service (MMS) proposed to add part 227 authorizing the delegation of several Federal royalty management functions to the States to their rules. (62 Fed. Reg. 19967). This letter provides Cyprus Amax Minerals Company's comments on the proposed rule. Cyprus Amax Minerals Company holds federal coal leases in the states of Colorado, Utah and Wyoming and an Indian lease in the state of Arizona.

As the preamble correctly notes, the proposed rule responds to section 3(d) of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA), Pub. L. 104-185, as corrected by Pub. L. 104-200, which requires the Secretary to promulgate standards and regulations "pertaining to authorities and responsibilities to be delegated." RSFA amends portions of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. § 1701 *et seq.* The RSFA amendments to section 205 of FOGRMA, 30 U.S.C. § 1735, expanded the prior delegation authority of only audits, inspections, and investigations for gas and oil leases. (62 Fed. Reg. 19967)

The preamble justifies the application of the RSFA amendments to section 205 of FOGRMA to solid minerals under the delegation authority for "audits, investigations, and inspections" contained in Pub. L. 102-154, 30 U.S.C. § 196. (62 Fed. Reg. 19968)

Cyprus Amax opposes any delegation of royalty management functions to the States for solid minerals beyond the "audits, investigations, and inspections" authorized by Pub. L. 102-154. The MMS lacks the statutory authority to extend the expanded delegable royalty management functions for oil and gas set forth in

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RSFA (amending FOGDRA § 205) to leasable solid minerals on Federal lands. All policies or rulemakings adopted by the MMS must refrain from the unlawful extension of the expanded delegable royalty management functions for oil and gas to solid minerals.

I have attached a copy of the National Mining Association's April 14, 1997 letter to Lucy R. Querques, Associate Director, Royalty Management Program, which discusses the lack of statutory authority for the delegation of the expanded delegable royalty management functions for oil and gas to solid minerals for your review.

In fact, the Department's Royalty Policy Committee, at the urging of their Coal Subcommittee, adopted a resolution at their March 21 meeting requesting that the MMS obtain a Solicitor's opinion on the delegation to solid minerals of the expanded delegable royalty management functions for oil and gas before formally proposing a rule on this issue. Until this requested Solicitor's opinion is prepared and released for public review, no such delegation of royalty management functions should be extended to solid minerals.

Cyprus Amax Minerals Company appreciates the opportunity to comment on this proposed rule. Please call me at (303) 643-5299 if you have any questions.

Sincerely,

  
William M. Hartzler  
Tax Manager

attachment

cc S. E. Chetlin, MC 229S  
J. D. Flemming, MC 473S  
M. W. Kegley, MC 236S  
S. A. Strunk, Tempe  
G. A. Walker, MC 235S